IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGHTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 14951 of 2004

Between:

E. Narayana Reddy, S/o. Bala Venkata Reddy,
R/o. Chinnasinganapalli Village, Duvvur Mandal, Kadapa District.

..... PETITIONER

AND

1 The District Collector, Kadapa District at Kadapa.
2 The Revenue Divisional Officer, Jammalamadugu, Kadapa District.
3 The Mandal Revenue Officer, Duvvur Mandal, Kadapa District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the impugned action of the 2nd respondent in issuing impugned proceedings Ref.B/750/2004, dated 17-7-2004 as highly illegal, arbitrary and violative of Art.14 and 21 of the Constitution of India and also contrary to the provisions of A.P. Public Distribution System (Control Order-2001) and consequently set aside the same.

Counsel for the Petitioner : MR. G.V.SHIVAJI

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

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WRIT PETITION NO.14951 OF 2004

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ORDER :

The petitioner is an authorized dealer in respect of the fair price shop of Chinnasinganapalli village, Duvvur Mandal, Kadapa District. His authorization has been suspended by the Revenue Divisional Officer, Jammalamadugu by order dated 17-07-2004 pending enquiry into alleged irregularities in distribution of the essential commodities, which is under challenge in this writ petition.

Heard both sides and perused the material on record.

Though the learned Counsel for the petitioner vehemently contended that the

allegations made against the petitioner are false and without any basis, I am not inclined to express any opinion with regard to the correctness of the said allegations since it is a matter to be enquired into by the 2nd respondent – Revenue Divisional Officer on the basis of the explanation offered by the petitioner and the other material available on record.

It is also relevant to note that against the order impugned, an alternative remedy is available under the statute by way of Appeal to the Joint Collector. Without exhausting the alternative remedy available, the petitioner cannot maintain this writ petition.

However, the learned Counsel for the petitioner raised a further contention that the impugned order of suspension without affording any opportunity to the petitioner to rebut the allegations and without even conducting a preliminary enquiry is arbitrary and illegal and in violation of the principles of natural justice. He relied upon Clause-(4) of A.P. Public Distribution System (Control) Order, 2001 and contended that the impugned order of suspension without making an enquiry as required under Clause-(4) is arbitrary and illegal.

On a plain reading of the Clause-(4) of the Control Order, 2001, it is clear that the "suspension" referred thereunder is only with regard to suspension of the authorization by way of punishment, but not suspension as an interim measure pending enquiry into the allegations against the dealer. Admittedly, under the impugned order, the authorization was suspended as an interim measure, pending enquiry into the allegations against the petitioner. It is not in the nature of a substantive punishment nor it is a final order. If that be so, it is always open to the 2nd respondent / competent authority to suspend the authorization in exercise of the inherent power where the situation so warrants. Such an order cannot be held to be bad merely on the ground of want of prior notice.

The learned Counsel for the petitioner in support of his contention has placed reliance upon K.SRINIVASA REDDY Vs. SUPERINTENDENT, PROHIBITION &

EXCISE and GOKA BUJJAMMA Vs. PROHIBITION & EXCISE SUPERINTENDENT, SRIKAKULAM in which a Division Bench of this Court while considering the scope of Section 31 (1) of A.P. Excise Act, 1968 set aside the order of suspension impugned in the said cases. It is to be noted in that in the said cases, the Division Bench found that the order impugned reads as if it is a final order under Section 31(1) of the Act and therefore held that it was illegal and against the provisions of the Section 31(1) of the Act. Hence, the said decisions cited by the learned Counsel for the petitioner are not applicable to the case on hand.

In the circumstances, without expressing any opinion with regard to the correctness of the allegations made against the petitioner, the Writ Petition is disposed of leaving it open to the petitioner to work out the alternative remedy available under law. No costs.

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28th September, 2004.

gbs

To

1 The District Collector, Kadapa District at Kadapa.
2 The Revenue Divisional Officer, Jammalamadugu, Kadapa District.
3 The Mandal Revenue Officer, Duvvur Mandal, Kadapa District.

4.2CCs to G.P. for Civil Supplies, High Court of AP Bldgs, Hyderabad (OUT).

5.2CD copies